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case.

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**IN THE
COURT OF APPEALS OF INDIANA**

STEVEN D. SHELL,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 25A05-0611-CR-660
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE FULTON CIRCUIT COURT
The Honorable Douglas B. Morton, Judge
Cause No. 25C01-9105-CF-53

July 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Steven D. Shell appeals the revocation of his probation. He raises three issues, which we restate as two: 1) whether he knowingly and intelligently waived his right to an attorney; and 2) whether the trial court properly ordered his sentences served consecutively.

We affirm.

DISCUSSION AND DECISION

1. Waiver of Right to an Attorney

Shell argues the record reflects a misunderstanding about whether his sentences were to be consecutive, and he therefore did not knowingly and intelligently waive his right to an attorney.

A defendant's waiver of his right to counsel may be established from the particular facts and circumstances surrounding the case, including the defendant's background, experience, and conduct. *Jones v. State*, 783 N.E.2d 1132, 1138 (Ind. Ct. App. 2003). The trial court explained to Shell that if he were found in violation of his probation, the remainder of his sentence could be executed and that sentence "would be on top of whatever you're doing now . . ." (Tr. at 4.) Shell replied, "Yes." (*Id.* at 5.) The trial court questioned Shell about his understanding of the proceedings and his wish to proceed *pro se*. On each occasion, Shell indicated he understood and did not want an attorney.

In addition, Shell is no stranger to the criminal justice system. The record before us reflects Shell knowingly, voluntarily, and intelligently waived his right to counsel.

2. Consecutive Sentencing

On May 22, 1991, the State charged Shell with battery committed with a deadly weapon. Shell agreed to plead guilty to that offense as a Class C felony. He was sentenced on August 26, 1991, to four years imprisonment, with two years and eight months of the sentence suspended and one year of probation.

On July 29, 1993, the probation department filed a Petition to Review Probation alleging Shell had not reported as required. A hearing was scheduled for August 30, 1993, then rescheduled for September 7, 1993. Shell did not appear and the court issued a warrant for his arrest. On October 19, 1993, the following entry was made in the Chronological Case Summary (CCS): “Probation dismissed. Defendant absconded [sic] warrant.” (App. at 3.)

Shell argues this CCS entry indicates he should not have to serve any of his probation because it was dismissed. However, that could not have been the trial court’s intent. If it were, the trial court would not have had authority to issue a warrant. We accordingly decline to read this CCS entry as a complete dismissal of Shell’s obligation to complete his probation.

If, after being arrested for one crime, a person commits another crime before the date he is discharged from probation, or while he is released on his own recognizance or on bond, the terms of imprisonment for the crimes are to be served consecutively. Ind. Code § 35-50-1-2(d). After Shell “absconded” from Indiana, he lived for a time in Kentucky. He returned to Indiana and was convicted in Jennings County of possession of

a firearm by a felon. He was serving that sentence at the time of the revocation hearing. On finding Shell violated probation, the trial court properly directed his remaining sentence be served consecutively to the sentence he was then serving.

Affirmed.

SHARPNACK, J., and BAILEY, J., concur.